

SUMMARY REPORT OF INVESTIGATION¹**I. EXECUTIVE SUMMARY**

Date of Incident:	September 18, 2015
Time of Incident:	5:00am
Location of Incident:	XXXX W. Arthington St.
Date of COPA Notification:	September 18, 2015
Time of COPA Notification:	7:30am

On September 18, 2015, Subject 1 alleges that Sergeant A punched him three times in the chest, placed him in handcuffs, and repeatedly told him to “shut the fuck up.”

II. INVOLVED PARTIES

Involved Officer #1:	Sergeant A, star # XXXX, employee ID# XXXXX, Date of Appointment – XX/XX 2000, Lieutenant, Date of Birth – XX/XX 1976, Male, Hispanic
Subject #1:	Subject 1, XX/XX 1946, Male, Black

III. ALLEGATIONS

Officer	Allegation	Finding
Unknown Officer	The Complainant, Subject 1 alleges that on September 18, 2015 at approximately 5:00am, at XXXX W. Arthington Street: 1. Failed to knock and announce their presence before knocking down Subject 1's door and entering his residence, in violation of Chicago Police Rule 6.	Not Sustained

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

Sergeant A	<p>The Complainant, Subject 1, alleges that on September 18, 2015 at approximately 5:00am, at XXXX W. Arthington Street:</p> <ol style="list-style-type: none">1. Failed to present a search warrant to Subject 1 in violation of Chicago Police Rule 6 and Special Order S04-19.2. Handcuffed Subject 1 too tightly, pushed him to the ground, and punched him repeatedly in the chest in violation of Chicago Police Rule 9 and Special Order S04-19;3. Told Subject 1 repeatedly to “shut the fuck up” while speaking to him, in violation of Chicago Police Rule 2.	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>

IV. APPLICABLE RULES AND LAWS

Rules

Rule 2 prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 6 prohibits disobedience of any order or directive whether written or oral.

Special Orders

Chicago Police Department Special Order S04-19-Search Warrants

Federal Laws

U. S. Const. art. IV

V. INVESTIGATION

a. Interviews

In an interview with IPRA on September 18, 2015, **Complainant, Subject 1** stated that on the date in question he was at home with his wife, Civilian 1, his son, Civilian 2, and grandson, Civilian 3. Subject 1 stated that he woke up that morning with a plan to take his wife to dialysis. Subject 1 stated that he was in his kitchen making breakfast when he heard police officers kicking down his front door.

Subject 1 stated that he heard officers say, "Everybody get down," when they entered his home. Subject 1 related that the officers did not announce their presence. Subject 1 then stated that Sergeant A pushed him down to the ground and handcuffed him. Subject 1 stated that Sergeant A then lifted him up and kept telling him to "shut the fuck up." When Subject 1 continued to ask why the officers were in his home, the officer punched him in the chest three more times. (Att. 5-6)

In an interview with IPRA on September 18, 2015, **eye witness Civilian 1** stated that on the date in question, her husband, Subject 1, was making her breakfast and she heard a loud banging at the front door. Officers entered the home and repeatedly told everyone to get down. She told the officers that she could not get down because of her illness. She stated that the officers did not explain why they were at her home and that they knocked down the bedroom door and front door to her home. She went on to state that Sergeant A kept telling her and her husband to "shut the fuck up." Civilian 1 went on to relate that Sergeant B punched her husband three to four times in the chest while he was handcuffed. (Att. 11-12)

IPRA investigators made attempts to interview **Civilian 2 and Civilian 3** by contacting the Cook County Public Defender's Office. Attorneys for both the individuals related, via email, that their clients declined to be interviewed by IPRA until their criminal matters were adjudicated. (Att. 39)

In an interview with IPRA on June 7, 2016, **Sergeant A** stated that on the date in question, he was assigned to the 15th District as a tactical supervisor. He stated that about 12 officers helped execute the warrant. He stated that after knocking on the front door and not receiving a response, the officers breached the door. Sergeant A stated that during the execution of the warrant, Subject 1 was having a "shouting match" with one of his officers. Sergeant A explained to Subject 1 that he needed to calm down but he refused. As a result, Sergeant A handcuffed Subject 1 behind his back and sat him down next to his wife.

Sergeant A further related that he told Subject 1 that he would take the handcuffs off when he calmed down. Sergeant A stated that he told Subject 1 that the officers were not leaving his home until they were done searching the residence. Sergeant A related that Subject 1 did complain that his handcuffs were too tight, so Sergeant A told Subject 1 that if he calmed down the handcuffs would be adjusted. Sergeant A later stated that Subject 1 eventually calmed down and that his

handcuffs were adjusted. Sergeant A stated that Subject 1 kept mentioning that his wife was on dialysis and that he needed to get her to the hospital. Sergeant A stated that he told Subject 1, "The quicker you let us do our job, the quicker you can take care of your personal issues." Sergeant A testified that he did not observe any department member punch, or push, Subject 1 and he did not hear Subject 1 request medical assistance. (Att. 40) (Att. 52)²

In an interview with IPRA on 13 June 2016, **Officer A** related that he was assigned to the 15th District and assisting a tactical team execute a search warrant. Officer A related that the search team made entry to the premises, but he was not sure how. Once he entered the building, he made sure the scene and the occupants of the home were secured. He recalled that the occupants of the home were an older man, Civilian 2, Civilian 3 and a female. He stated that his main objective was to make sure everyone was safe. He recalled the older gentlemen being very upset and loud, demanding to see the officers' search warrant. He did not remember Subject 1 being handcuffed and stated that he did not have any interaction with Subject 1. He further did not recall any department member punch or push Subject 1. Further, he heard no department member curse or say, "Shut the fuck up." He did not remember if Subject 1 requested medical attention. (Att. 41)

In an interview with IPRA on June 13, 2016, **Officer B** stated that on the date in question, she was assigned to the 15th District as a tactical officer. She did not recall what tools they used to enter Subject 1's residence. When she entered the residence, she saw Civilian 2 being detained, so she stayed in the general area and searched a nearby bedroom. She observed Subject 1 screaming and yelling. She noticed that Subject 1 was visibly upset that the officers were in his house. However, she did not observe any interaction between Subject 1 and other officers. She did not hear any CPD members use foul language. (Att. 42)

In an interview with IPRA on June 14, 2016, **Officer C** related that on the date in question, he was assigned to the 15th District and he executed a search warrant with about thirteen other officers. He recalled that he was one of the first officers in line when entering the residence, but could not remember where in the line he was. He stated that he was the affiant for the search warrant, and that he prepped the other officers before entering the premises.

The officers believed that the occupants inside would be Civilian 2 and his parents. Officer C also stated that based on his informant's information he told his team that there would likely be weapons in the house. Officer C stated that he does not recall if force was used to enter the premises. Officer C further testified that when he entered the premises, Civilian 2 was in the living room lying down. Then, he went to the kitchen where two older individuals were. He stated that Civilian 3 went to the back bedroom and locked the door. The bedroom was breached and Civilian 3 was secured. Officer C related that the officers found a gun in the bedroom, drugs in the freezer,

² Sergeant A's Administrative rights were given to him but the signed copy is not in the physical file.

and another handgun in the house. Officer C stated that Subject 1 became agitated for some reason and was upset that officers were in his home.

Officer C stated that while he was searching a room he could hear Subject 1 yelling something to the effect of, "Why are you here?" Officer C did recall Sergeant A speaking to Subject 1 but does not recall what was said. Officer C related that he had no physical contact with Subject 1. Officer C did not observe any department member punch or push Subject 1. Officer C also did not hear any department members use foul language. (Att. 43)

In an interview with IPRA on June 14, 2016, **Officer D** related that on the date in question he was assigned to the 15th District as a tactical officer. He stated that he was part of the entry team executing the search warrant. He related that he was second from the breach officer and carrying a rifle. Officer D stated that the team used force to enter the premises after knocking. Officer D stated that he entered the residence in a low ready stance, meaning his rifle was pointed at the ground. Officer D testified that there were two people in the kitchen and that they were instructed to go into the living room. Officer D stated that another subject, now known as Civilian 3, ran to a bedroom and locked the door. Officer D testified that officers breached that door and a gun was found near Civilian 3's hand. In his interview, Officer D recalled Subject 1 being initially calm, then agitated. Officer D related that Subject 1 was saying things to the effect of, "Why are you here?", Officer D observed Sergeant A speaking to Subject 1. He further related that he did not observe any department member punch or push Subject 1, nor did he see any department member kick down any doors or curse. Officer D did not recall if Subject 1 requested medical attention. (Att. 44)

In an interview with IPRA on June 15, 2016, **Officer E** related that on the date in question, he was assigned to the 15th District and assisted in executing a search warrant. He stated that he was the last person to make entry to the residence. He did not go anywhere in the residence except for the living room. He observed two offenders in custody, an elderly woman, and an elderly man in the living room. He stated that the occupants were shocked and agitated by the police presence in their home. Officer E stated that Subject 1 was belligerent and non-compliant to verbal directions.

Officer E further related that he did not observe any department member punch or push Subject 1, nor did he observe any department member kick down any doors. Officer E testified that he did not hear any department member use foul language, and does not recall Subject 1 requesting medical attention. (Att. 45)

In an interview with IPRA on June 15, 2016, **Officer F** stated that on the date in question, he was assigned to the 15th District assisting the execution of a search warrant. Officer F was dressed in tactical wear and his duties were to stand guard in the backyard. Once the scene was secure, he went to the front of the residence and entered through the front door. Officer F stated

that when he first walked in the door, he saw that Subject 1 was agitated and verbally abusive towards the officers.

Officer F could not recall the specific language used by Subject 1 but did recall other occupants telling Subject 1 to calm down. Officer F testified that he and other officers spoke with Subject 1 to try to calm him down. Officer F could not remember the names of the officers that spoke to Subject 1. Officer F did not recall who handcuffed Subject 1. Officer F did not observe any department member punch or push Subject 1. Further, Officer F related that he did not hear a department member curse at Subject 1. (Att. 46)

In an interview with IPRA on July 7, 2016, **Officer G** related that on the date in question, he was assigned to the 15th District and arrived with other officers to execute a search warrant. Officer G stated that his duties were to guard the subjects in the living room after entry. Officer G stated that the breaching officer knocked on the door, and waited for a reasonable amount of time. Officer G testified that the officers did not receive a response so they breached the door with the ram. Officer G stated that he was near the back of the entry line. Officer G stated that he heard officers tell the occupants of the home that they were executing a search warrant and to get down. Officer G saw Civilian 2 either on the couch or the floor. He did not recall if he was handcuffed or not. Officer G remained in the front room and guarded Civilian 2. Eventually, there were a total of four people in the living room: Subject 1, Civilian 2, Civilian 3, and Civilian 1. Officer G recalled Subject 1 being animated and very agitated. Officer G testified that Subject 1 was yelling and screaming that the police had no reason to be at his home. Officer G stated that an officer explained their presence and provided Subject 1 with the warrant. Officer G could not recall which officer did this. Officer G did not observe anyone punch or push Subject 1, nor did he hear any officer curse at Subject 1. (Att. 47)

In an interview with IPRA on July 7, 2016, **Officer H** stated that on the date in question, he assisted in the execution of a search warrant. He stated that prior to the search warrant, the officers had a meeting before going to the residence to review the layout of the premises. Officer H related that officers were looking for Civilian 2 and were told to search the residence for narcotics.

Officer H stated that he was the breach officer. Officer H remembered that someone knocked on the door, and after no one responded he made a forced entry and then let everyone behind him enter. Officer H testified that he was the last person to enter. Officer H could not recall how many times he used the battering ram. Officer H believed that officers discovered drugs and handguns in the home. Officer H observed two to three people in the living room sitting on a couch when he entered. Officer H did not recall the verbal commands that were issued. Officer H did hear Subject 1 complaining and stated that Subject 1 was loud. Officer H further testified that an officer explained to Subject 1 that they had a court order to be there. Officer H did not recall if Subject 1 was handcuffed and did not recall whether Subject 1 was pushed, punched, or cursed at. (Att.48)

In an interview with IPRA on September 26, 2016, **Officer I** stated that on the date in question, he was assigned to the 15th District tactical team and assisted in the execution of a search warrant. Officer I stated that prior to the execution of the search warrant, they were given a picture of the target, instructions, and a description of the residence. Officer I stated that he made entry into the residence with his rifle in his hand. Officer I further stated that they usually carry a "Chicago bar," which is a crowbar-like tool, and a sledge hammer when they make forced entries to residences. However, Officer I could not recall what tools officers used at the search in question. Officer I recalled going into the residence with his rifle to clear the living room so that the other officers could enter and search the rooms in the residence. Officer I does not remember what he said when he entered the residence. Officer I stated that there were other people in the living room being detained by officers and that the officers needed to make a forced entry into a bedroom.

Officer I stated that he mostly interacted with Civilian 3 because Civilian 3 locked himself in a bedroom. The officers knocked on the door a couple of times and either kicked the door down or used the battering ram to enter the room. Officer I further stated that they recovered narcotics in the fridge and two handguns. Officer I related that he did not have physical contact with any other occupant in the residence and that he did not observe anything improper happening to Subject 1. (Att. 49)

In an interview with IPRA on September 26, 2016, **Officer J** stated that on the date in question, he was working beat XXXX as a plain clothes officer. He was wearing his bullet proof vest that said 'Police' on the back. He stated that he helped execute a search warrant with about ten other officers. Prior to the search warrant, there was a debriefing given by Officer C at the 15th District. The instructions were to locate the target, Civilian 2, and execute the search warrant. Officer J did not recall what number he was in the entry line. He further did recall any department member punch, push, or kick Subject 1. Officer J stated that he did not hear any department member curse. (Att. 50)

b. Digital Evidence

CPD Photographs of execution of the Search Warrant. The photos were taken by CPD tactical officers that performed the search. They show before and after shots of many of the rooms that were searched, and the doors that was breached. (Att. 36)

c. Physical Evidence

Medical records reveal that on September 18, 2015, Subject 1 went to Hospital 1 located at XXXX S. Fairfield Ave Chicago, IL, 60608, at approximately 12:40pm. The medical records from Hospital 1 show that Subject 1 went to Hospital 1 for pain in his chest. Subject 1 told medical personnel that he was punched in the chest by CPD officers. Subject 1 related to medical personnel that he only feels pain when he pushes on the area. Subject 1 stated that the level of pain was a 2/10. Doctor 1 reported that Subject 1 had a contusion on his chest. (Att. 16, 38)

d. Documentary Evidence

Search Warrant XXXXXX is a J. Doe warrant specifying the search of the first floor apartment located at XXXX W. Arthington St. The search warrant is for illegal drugs and drug paraphernalia. It names Civilian 2 aka “Alias 1” as the subject. (Att. 23-24)

The **Arrest Report** of Civilian 2 documents that he was arrested for controlled substance. The arrest report also shows that he told officers, “I’ll vouch for all the dope in the house, its mine. I don’t know anything about the guns.” (Att. 20)

The **Arrest Report** of Civilian 3 documents that he was arrested for possession of a firearm. (Att. 22)

VI. ANALYSIS**Accused 1: Multiple Unidentified Officers****Allegation #1: Not Sustained**

COPA recommends a finding of **Not Sustained** for **Allegation 1**, against **unidentified officers** who failed to knock and announce their presence before knocking down Subject 1’s door and entering his residence, in violation of Chicago Police Rule 6. Chicago Police Special Order S04-19, states that while executing a search warrant Chicago Police members must adhere to the Knock and Announce Rule. The rule states that officers must announce their presence and provide the occupants in the residence a reasonable opportunity to open their door and allow entry.

In this case there, is not enough evidence to sustain this allegation. Officer H, the breaching officer, stated that he knocked, didn’t hear anything, and after a reasonable amount of time made a forced entry. Many of the other officers interviewed also stated that they heard the knock and waited for a reasonable amount of time before entry. Subject 1 admits that he was in the kitchen cooking breakfast for his wife when officers made entry. It is possible that officers knocked and Subject 1 did not hear it because he was in the kitchen cooking. There is not sufficient evidence to sustain this allegation, and therefore, Allegation 1 must be **Not Sustained**.

Accused 2: Sergeant A**Allegation #1: Not Sustained****Allegation #2: Not Sustained****Allegation #3: Not Sustained**

COPA recommends a finding of **Not Sustained** for **Allegation 1** against **Sergeant A** who is alleged to have failed to present the search warrant to Subject 1 in violation of Chicago Police Rule 6.

Chicago Police Special Order S04-19 states that a member of the search team will promptly present a copy of the search warrant to the person in charge of the premises. Subject 1 claims that he did not see the search warrant and that Sergeant A told him to, “shut the fuck up” when he inquired about the warrant. In contrast, multiple officers testified that a copy of the search warrant was presented to Subject 1. There are no body worn cameras or independent third-party witnesses to corroborate either version of the events. Neither the officers, nor Subject 1 were impeached or contradicted by physical evidence. Based on the available evidence, there is insufficient evidence to prove or disprove the allegation. Therefore, COPA recommends a finding of **Not Sustained**.

COPA recommends a finding of **Not Sustained** for **Allegation 2** against Sergeant A who is alleged to have handcuffed Subject 1 too tightly, pushed him to the ground, and punched him repeatedly in the chest in violation of Chicago Police Rule 9. Subject 1 and his wife, Civilian 1 both stated that they saw Sergeant A punch Subject 1 in the chest while he was handcuffed. None of the officer interviewed saw Sergeant A or anyone punch, or push Subject 1. Sergeant A specifically denied the allegation. Sergeant A did state that Subject 1 complained about the handcuffs being too tight and that he loosened the handcuffs after Subject 1 calmed down. Subject 1 and Sergeant A’s statements were never impeached, and both statements were supported by witness testimony. In fact, Sergeant A admitted to much of the interaction described by Subject 1. In contrast, Subject 1 did go to the hospital where he complained he was struck by police and was treated for a bruise to his chest. While the records document Subject 1’s version of the events immediately after the incident, the records detail the same narrative Subject 1 provided COPA. Unfortunately, there are no body worn cameras, or independent witnesses to confirm either version of the events. Both sides provide similar and credible testimony of what occurred but diverge on the pivotal details. It is clear that when Sergeant A’s team entered the house Subject 1 was genuinely surprised and agitated. He was delayed in taking his wife to the doctor in addition to having his home turned over. However, not only does Sergeant A deny punching Subject 1 but several officers corroborate Sergeant A’s version of his interaction with Subject 1. Based on all of the facts gathered, there is insufficient evidence to prove or disprove this allegation. Therefore, COPA recommends a finding of **Not Sustained**.

COPA recommends a finding of **Not Sustained** for **Allegation 3** against Sergeant A, who repeatedly told Subject 1 to “shut the fuck up.” Subject 1 and his wife Civilian 1 both testified in their independent interviews that Sergeant A kept telling Subject 1 to “shut the fuck up.” All the officers interviewed either denied hearing these statements or did not remember what was said on the date in question. Sergeant A denied making the statement. Because there is no other independent third-party witness, video camera or testimonial impeachment to verify this allegation, COPA recommends a finding of **Not Sustained**.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Multiple Unidentified Officers	<p>1. Failed to knock and announce their presence before knocking down Subject 1's door and entering his residence, in violation of Chicago Police Rule 6.</p>	Not Sustained
Sergeant A	<p>1. Failed to present a search warrant to Subject 1 in violation of Chicago Police Rule 6 and Special Order S04-19.</p> <p>2. Handcuffed Subject 1 too tightly, pushed him to the ground, and punched him repeatedly in the chest in violation of Chicago Police Rule 9 and Special Order S04-19;</p> <p>3. Told Subject 1 repeatedly to "shut the fuck up" while speaking to him, in violation of Chicago Police Rule 2.</p>	<p>Not Sustained</p> <p>Not Sustained</p> <p>Not Sustained</p>

Approved:

Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	X
Investigator:	Investigator 1
Supervising Investigator:	Supervising Investigator 1
Deputy Chief Administrator:	Deputy Chief Administrator 1